



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,798	05/24/2000	Dwight Allen Merriman	16113-1341RE1	4541
26192	7590	12/11/2012		
FISH & RICHARDSON P.C.				
PO BOX 1022				
MINNEAPOLIS, MN 55440-1022				
EXAMINER				
LANEAU, RONALD				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
12/11/2012		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

09/577,798

Applicant(s)

MERRIMAN ET AL.

Examiner

RONALD LANEAU

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2012.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 51-57 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 51-57 is/are allowed.
- 7) ☐ Claim(s) ____ is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/04/2012; 04/24/2002

- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 4) ☐ Other: ____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/04/12 has been entered.

Oath/Declaration

2. A new supplemental declaration is required with an error statement. The error statement in the Supplemental reissue declaration received on 05/30/12 is correct but just needs to specifically indicate whether applicant claimed "more" or "less" than he had a right to claim. New claim(s) should point out the differences over original claim. This is specifically needed because the declaration is signed by the assignee and cannot be accepted unless there is no broadening and in this case there is not.

Appropriate correction is required.

Claim Objections

3. A new set of claims is required and they need to be underlined in order to be proper since they are actually "new" with respect to the patent and should be designated as such.

Appropriate correction is required.

Allowable Subject Matter

4. Claims 51-57 are allowed.

The following is an examiner's statement of reasons for allowance:

Based on the Board's decision, claims 51-57 are allowed and none of the references, either singularly or in combination, disclose or even suggests that the FocaLink documents fail to show that FocaLink's Smart Banner technology included an advertisement server node that, upon receiving a request for advertising content from a user node, selected an advertiser node based on a number of times advertising content had been previously displayed at the user node.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RONALD LANEAU whose telephone number is (571)272-6784. The examiner can normally be reached on 8:30 - 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lewis can be reached on (571) 272-7673. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/
Primary Examiner
Art Unit 3714

rl